

**IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

HUNTINGTON DIVISION

JOHN W. RANDOLPH,

Plaintiff,

v.

CIVIL ACTION NO. 3:09-1095

FELMAN PRODUCTION, INC.,

Defendant.


MEMORANDUM OPINION AND ORDER

This action was referred to the Honorable Maurice G. Taylor, Jr., United States Magistrate Judge, for submission to this Court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and recommended that Plaintiff's Motion to Dismiss be granted and this action be dismissed without prejudice. Counsel for Defendant has informed the Court that Defendant has no objection to the Magistrate Judge's findings and recommendation.

Accordingly, the Court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and **GRANTS** Defendant's motion to dismiss and dismisses this action without prejudice, consistent with the findings and recommendation.

The Court **DIRECTS** the Clerk to forward copies of this written opinion and order to all counsel of record, and any unrepresented parties.

ENTER: November 17, 2009


ROBERT C. CHAMBERS
UNITED STATES DISTRICT JUDGE